IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

RSA.No. 676 of 2007()

AS.36/2004 of ADDL.DISTRICT COURT (ADCHOC)-II, PATHANAMTHITTA
OS.424/1990 of MUSNIFF COURT,ADOOR

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: APPELLANT/APPELLANT/PLAINTIFF.

GOMATHI AMMA SUSEELA,RESIDING AT
AHAMMADBAD FROM MEDAYIL,PARAKODU MURI, ADOOR,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER,
RAMACHANDRANN UNNITHAN, RESIDING AT MEDAYIL MURI,
ADOOR VILLAGE.

BY ADV. SRI.N.SURESH

RESPONDENTS: DEFENDANTS

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1. THEVI, KUTTIYIL VEEDU,
PARAKODU MURI, ADOOR VILLAGE,

2. BHASKARAN, KUTTIYIL VEEDU, DO..DO...

3. THE ADOOR MUNICIPALITY, REPRESENTED
BY ITS SPECIAL OFFICER.

BY

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

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R.S.A. NO. 676 OF 2007

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Dated this the 27th day of September,2007

JUDGMENT

Plaintiff in O.S.424/1990 on the file of Munsiff Court, Adoor is the appellant. Defendants are the respondents. Appellant instituted the suit seeking a decree for a permanent prohibitory injunction through her brother, on the strength of a power of attorney executed by plaintiff sister when she left the native place. Respondents raised a contention before the trial court that the power of attorney does not authorise the power of attorney holder to institute the suit and it only enables the power of attorney holder to execute document on behalf of his sister and therefore the suit is not maintainable.

2. Learned Munsiff accepted the objection and dismissed the suit as not maintainable. Plaintiff through the power of attorney holder filed A.S.36/2004 before District Court, Pathanamthitta.

The learned Additional District Judge on analysing Ext. A2 power of attorney held that it is a not a general power of attorney and is only a special power of attorney and it does not authorise the power of attorney holder to institute the suit. Appeal was dismissed. It is challenged in the second appeal contending that Ext.A2 is a general power of attorney and therefore the power of attorney holder is entitled to institute the suit.

2. Learned counsel appearing for appellant was heard. Learned counsel made available a copy of Ext.A2. On going through Ext.A2, it is absolutely clear that the power of attorney holder was authorised by his sister, appellant only to execute document on her behalf and not to institute any suit. It is not a general power of attorney. In such circumstance, no substantial

question of law is involved in the appeal. The appeal is dismissed. It is made clear that dismissal of the appeal will not prevent the appellant from instituting a suit by herself or through a proper power of attorney holder.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006